

AMENDED IN ASSEMBLY APRIL 28, 2005

AMENDED IN ASSEMBLY APRIL 4, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

## ASSEMBLY BILL

**No. 1084**

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**Introduced by Assembly Member Vargas**

February 22, 2005

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An act to amend Section 10290 of, and to add Sections 10371 and 10372 to, the Insurance Code, relating to disability insurance.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1084, as amended, Vargas. Policy terms.

Existing law generally regulates health insurance. Existing law prohibits a health insurance policy from being issued or delivered until certain documents are filed with the Insurance Commissioner, and a period of 30 days expires after this filing or the commissioner gives his or her written approval prior to that time.

This bill would change the 30-day period to 30 business days.

Existing law generally regulates disability income insurance, which is insurance against loss of occupational earning capacity arising from injury, sickness, or disablement. Existing law allows disability income insurance policies to include certain optional provisions.

This bill would allow a disability income insurance policy to contain a provision stating that benefits shall not be payable unless the insured is covered under a *medical* health insurance policy *or plan* and is receiving care by a licensed physician that, under prevailing medical standards, is appropriate for the condition causing the disability, except as specified. The bill would also set forth provisions for the payment of additional disability income benefits.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 10290 of the Insurance Code is  
2 amended to read:

3 10290. A disability policy shall not be issued or delivered to  
4 any person in this state until each of the following occurs:

5 (a) A copy of the form thereof and, if more than one class of  
6 risks is written, of the classification of risks, and the premium  
7 rates pertaining thereto are filed with the commissioner.

8 (b) Either of the following occurs:

9 (1) A period of 30 business days expires without notice from  
10 the commissioner after the copy is filed.

11 (2) The commissioner gives his or her written approval prior  
12 to that time.

13 SEC. 2. Section 10371 is added to the Insurance Code, to  
14 read:

15 10371. (a) A disability income insurance policy, as defined  
16 in subdivision (i) of Section 799.01, may contain a provision that  
17 provides that benefits shall not be payable unless the insured is  
18 receiving care by a licensed physician that, under prevailing  
19 medical standards, is appropriate for the condition causing the  
20 disability. This requirement will be deemed to have been met if  
21 the insurer receives written proof that, under prevailing medical  
22 standards, further care would not be reasonably expected to  
23 improve the insured's condition or functional ability.

24 (b) This section shall not apply to an insured, unless the  
25 insured is covered under a *medical* health insurance policy *or*  
26 *health insurance plan*.

27 (c) The insurer may require that the physician treating the  
28 ~~claimant insured~~ not be any of the following:

29 (1) The ~~claimant insured~~.

30 (2) The ~~claimant's insured's~~ spouse, *child*, or domestic  
31 partner.

32 (3) Related to the ~~claimant's insured's~~ spouse or domestic  
33 partner.

34 (4) Employed by, or have a business relationship with, the  
35 ~~claimant insured~~.

1 SEC. 3. Section 10372 is added to the Insurance Code, to  
2 read:

3 10372. (a) The Legislature finds and declares the following:

4 (1) Employees with a disability often encounter extraordinary  
5 expenses not covered by financial resources.

6 (2) Not all individuals have the financial resources to purchase  
7 long-term care insurance.

8 (3) It is good public policy to make available through group or  
9 individual disability income policies additional disability income  
10 benefits when employees with a disability find themselves unable  
11 to perform certain activities of daily living.

12 (b) A disability income insurance policy, as defined in  
13 subdivision (i) of Section 799.01, may contain provisions for the  
14 payment of additional disability income benefits. An employee  
15 covered under a group or individual disability income policy may  
16 be required to establish eligibility for disability income benefits  
17 only once and shall not be required to reestablish eligibility if,  
18 subsequently, the employee with a disability makes a claim for  
19 additional disability income benefits. Eligibility for additional  
20 disability income benefits shall be established if the employee  
21 with a disability is determined to be unable to perform no fewer  
22 than two activities of daily living. The determination of  
23 eligibility shall be made in writing by a licensed health care  
24 practitioner, and an insurer may seek independent confirmation  
25 of the health care practitioner's findings. Additional disability  
26 income benefits shall be paid as long as the employee with a  
27 disability remains eligible for disability income benefits and  
28 continues to be unable to perform no fewer than two activities of  
29 daily living. Additional disability income benefits may be  
30 utilized by the employee with a disability in any manner he or  
31 she determines. The certificate issued in conjunction with a  
32 group disability income policy containing provisions for the  
33 payment of additional disability income benefits shall  
34 prominently note that the additional benefits are not long-term  
35 care insurance and are not intended as a substitute for long-term  
36 care insurance. For purposes of this section, activities of daily  
37 living are bathing, dressing, continence, toileting, transferring,  
38 and eating.

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